

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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KATHRYN O'BRIEN,

Plaintiff,

- v -

MARRIOTT INTERNATIONAL, INC., et
al.,

Defendants.
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DECISION AND ORDER

CV-04-3369 (ERK)(VVP)

In letters dated May 10 and 16, 2005,¹ the parties have addressed to the court a dispute concerning the situs and other issues related to the depositions of two employees of the defendant upon which the court rules as follows.

As the two prospective deponents are non-parties, they cannot be compelled to travel to New York for their depositions. *See generally* Fed. R. Civ. P. 45. Their depositions may be taken by telephone, at the plaintiff's election, and this appears to be the most efficient option since the court does not find the plaintiff's arguments in opposition to this method of deposition to be persuasive. If the plaintiff chooses to take the depositions in person, then pursuant to Local Civil Rule 30.3 the plaintiff shall reimburse the defendant, in advance, for transportation costs for the attendance of the defendant's counsel at the depositions.² Because the depositions can and should be completed in one day, costs of accommodation are not appropriate unless the plaintiff chooses to conduct the depositions over a two-day period, in which case the cost of accommodations for one night shall also be reimbursed.

¹The court did not consider the defendants' letter dated May 17, 2005 as replies are not accepted with respect to discovery disputes. Local Civil Rule 37.3(c).

²If the costs of the depositions qualify as taxable costs under Local Civil Rule 54.1, these transportation costs are also taxable.

The plaintiff's counsel did not submit his May 16, 2005 letter to the court via electronic case filing (ECF), which is now mandatory for all civil cases, other than pro se cases, in this district. Accordingly, no submission will hereafter be considered in this case unless filed electronically. Counsel should consult with Evelyn Levine (718-260-2312 or 2313) in the clerk's office for information about registration in the court's ECF program.

SO ORDERED:

Viktor V. Pohorelsky

VIKTOR V. POHORELSKY
United States Magistrate Judge

Dated: Brooklyn, New York
May 18, 2005